

### ARGUMENTS/REMARKS

Applicants would like to thank the examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and favorable reconsideration of the subject application is requested in view of the comments and/or amendments made herein.

Claims 36-57, 60-70, and 73-80 remain in this application. Claims 58-59 and 71-72 have been canceled. Claims 81-84 are added without adding any new matter.

Claims 36-38, 41, 46, 50-51, 55, 61, 68, and 73-74 were rejected under 35 U.S.C. 103(a) as being unpatentable over Smithers (U.S. Patent No. 3,978,642) in view of Cohn (U.S. Patent No. 5,868,547). Claims 39-40, 42-45, 47-49, 56-57, 65-67, 69-70, and 78-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smithers and Cohn as applied to claims 36, 55, or 68 above, and further in view of Staton (U.S. Patent No. 4,722,432). Claims 54, 64, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smithers and Cohn as applied to claims 36 and 55, and 68 above, and further in view of LaPlace et al. (U.S. Patent No. 6,595,739). Claims 53, 63, and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smithers and Cohn as applied to claims 36, 55, and 68 above, and further in view of Wadell (U.S. Patent No. 4,762,083). For the following reasons, the rejections are respectfully traversed.

Claim 36 has been amended to recite the feature that the “vacuum feeder system is configured for *accumulating* said flaccid food pieces *next to said cylinder body*” (emphasis added) and correspondingly the feature that the “vacuum feeder system is configured for *accumulating* said flaccid food pieces that are delivered to said transfer device via the first transport means, *next to said rotating cylinder body*” (emphasis added) is recited in amended claims 55 and 68.

This feature can be found in the description of the application as originally filed, cf. WO 2005/035405 A1, e.g. on page 2, lines 12 – 15. It is noted that this feature relates to the handling of the pieces when they reach the transfer device, i.e. the rotating cylinder body, where they can be accumulated, e.g. in case they have been delivered unorderedly (e.g.

with too little distance between some of the pieces). Such a feature is not found in any of the cited prior art references.

Even if, for the sake of argument, the prior art may be said to teach that the pieces can be delivered in an unorderedly form, the above cited feature has the advantage that no matter if the pieces are delivered unorderedly or in accumulated form, the transfer device should be able transfer the devices in the desired manner, e.g. one by one in correspondence with the order of the holes in the outer surface of the cylinder body, e.g. since the pieces can be accumulated next to the rotating cylinder body, waiting for a vacant hole on the cylinder to grip the next piece. Consequently, because such a feature is not found in any of the cited references, the claims are patentable over the prior art.

As regards claims 36 to 54, the claims have been amended to specify that the items transferred are “flaccid food pieces”, in contrast to Smithers which uses vacuum to transfer a *plastic film*, not flaccid food pieces. Thus, the claims are patentable over the reference sfor this reason as well.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. SCAN1-40146.

Respectfully submitted,  
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Date: June 10, 2010

By:           / Robert F. Bodi /            
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